**TESTIMONY OF CHARLES C. MADDOX, ESQ.,**
**INSPECTOR GENERAL, BEFORE THE D.C. COUNCIL**
**COMMITTEE ON GOVERNMENT OPERATIONS**

**STATEMENT FOR THE RECORD REGARDING THE "INSPECTOR GENERAL QUALIFICATIONS AMENDMENT ACT OF 2003"**

**FISCAL YEAR 2002 PERFORMANCE REVIEW**

**MARCH 7, 2003**

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THANK YOU FOR THIS OPPORTUNITY TO TESTIFY BEFORE THIS COMMITTEE ABOUT OUR PERFORMANCE MEASURES FOR FISCAL YEAR (FY) 2002, WHICH COVERS OUR OFFICE'S STATISTICAL ACCOMPLISHMENTS IN FY 2002 AND THE FIRST QUARTER OF FY 2003. I HAVE PREPARED A WRITTEN STATEMENT, WHICH I WILL READ TODAY OR SUBMIT FOR THE RECORD ACCORDING TO YOUR WISHES. HOWEVER, FIRST, I WOULD LIKE TO COMMENT- ON THE RECORD AND UNDER OATH - ON THE INSPECTOR GENERAL QUALIFICATIONS AMENDMENT ACT OF 2003, WHICH THE COUNCIL INTRODUCED ON MARCH 3, 2003. THIS BILL SEEKS TO CHANGE THE QUALIFICATIONS FOR THE POSITION OF INSPECTOR GENERAL THAT WERE SET FORTH BY CONGRESS IN PUBLIC LAW 104-8. ALTHOUGH THESE QUALIFICATIONS WERE NOT IN EFFECT AT THE TIME I WAS APPOINTED BY THE MAYOR TO A FEDERALLY MANDATED SIX-YEAR TERM, I WOULD, ACCORDING TO THE TERMS OF THE COUNCIL'S BILL, BE FORCED TO VACATE MY POSITION FOR FAILURE TO MEET ANY OF THEM. BECAUSE SOME OF THE NEW QUALIFICATIONS – SUCH AS SEVEN YEARS OF DC BAR MEMBERSHIP *BEFORE* BECOMING THE IG – ARE IMPOSSIBLE FOR ME TO MEET, THIS PROPOSED LEGISLATION WOULD HAVE THE *EX POST FACTO* EFFECT OF FORCING ME TO VACATE MY POSITION.

IF ENACTED, THIS LEGISLATION WOULD HAVE THE EFFECT OF NEGATING FEDERAL LAW (PUB. L. 104-8), WHICH ESTABLISHES THE INSPECTOR GENERAL'S SIX-YEAR TERM AND THE FEDERAL PROVISIONS ALLOWING HIM TO BE REMOVED ONLY FOR CAUSE BY THE MAYOR. AS YOU KNOW, THIS LAW WAS ENACTED TO ENSURE THAT THE INSPECTOR GENERAL WOULD "HAVE POLITICAL INDEPENDENCE AND FINANCIAL RESOURCES TO ACT AS A STRONG WATCHDOG."

CHAIRMAN ORANGE, I HAVE HAD THE OPPORTUNITY TO REVIEW CORRESPONDENCE BY YOU CONCERNING THIS LEGISLATION AS WELL AS YOUR COMMENTS TO THE *WASHINGTON POST*. RESPECTFULLY, I WOULD LIKE TO CORRECT THE RECORD CONCERNING SEVERAL OF THE FACTS THAT YOU HAVE REPRESENTED ARE THE BASIS FOR THIS BILL.

YOU HAVE ADVISED U.S. CONGRESSMAN TOM DAVIS AND DELEGATE ELEANOR HOLMES NORTON THAT THIS BILL "WAS PROMPTED IN PART BY INSPECTOR GENERAL CHARLES MADDOX'S FAILURE TO INVESTIGATE THE CURTIS LEWIS & ASSOCIATES DC CONTRACTS," NOTING THAT IN JULY 2001 AN EMPLOYEE OF THE DC OFFICE OF HUMAN RIGHTS INFORMED THE INSPECTOR GENERAL THAT CONTRACTS WERE BEING STEERED TO CURTIS LEWIS, THE BROTHER OF WASHINGTON TEACHERS' UNION TREASURER, JAMES O. BAXTER II. YOU INDICATED TO THE CONGRESSIONAL REPRESENTATIVES THAT "CLEARLY THE IG

HAD AN OPPORTUNITY AND OBLIGATION TO INVESTIGATE THESE ALLEGATIONS IN 2001, AND PERHAPS EXPOSE ONE OF THE BIGGEST SCANDALS IN DC HISTORY." **EXHIBIT A.**

BY LETTER DATED MARCH 5, 2003, YOU ADVISED THE MAYOR AND THE COUNCIL THAT ON JULY 20, 2001, AN EMPLOYEE OF THE DC OFFICE OF HUMAN RIGHTS RELAYED TO MY OFFICE "VIOLATIONS BY HOLMAN [DIRECTOR OF OHR] REGARDING CONTRACT AWARDS TO CURTIS LEWIS AND ASSOCIATES THAT EXCEEDED HOLMAN'S CONTRACTING AUTHORITY . . . THAT CURTIS LEWIS WAS NOT PRODUCING QUALITY LEGAL SERVICES AND THEIR LETTERS OF DETERMINATION [LODs] REQUIRED ADDITIONAL AND SUBSTANTIAL WORK BY THE OHR STAFF." **EXHIBIT B**.

THESE ASSERTIONS ARE UNTRUE. IN FACT, MY OFFICE DID RECEIVE A WRITTEN COMPLAINT AGAINST MR. HOLMAN FROM AN OHR EMPLOYEE ON JULY 20, 2001, ALLEGING PAYMENT TO AN ATTORNEY WITHOUT BENEFIT OF A CONTRACT AND APPROVAL OF PAYMENT FOR WORK THAT WAS NOT PERFORMED. **EXHIBIT C**. I MUST INFORM YOU, HOWEVER, THAT THIS COMPLAINT IN NO WAY INVOLVED THE LAW FIRM OF CURTIS LEWIS & ASSOCIATES BUT INSTEAD, A DIFFERENT LAW FIRM. AT NO TIME IN THE WRITTEN STATEMENT OR IN SUBSEQUENT INTERVIEWS WITH ANY OF THE COMPLAINANTS FROM OHR EMPLOYEES IS THERE ANY MENTION OF CURTIS LEWIS.

IT SHOULD BE NOTED THAT MY OFFICE DID IN FACT CONDUCT A FULL INVESTIGATION INTO ALL OF THE ALLEGATIONS RECEIVED AGAINST MR. HOLMAN. BECAUSE SOME OF THESE CASES ARE NOW CLOSED, I CAN NOW COMMENT ON THEM. WITH RESPECT TO THE JULY 20, 2001, COMPLAINT THAT IS DESCRIBED IN MR. ORANGE'S LETTER, I CAN ADVISE YOU THAT A FULL REPORT OF INVESTIGATION WAS WRITTEN AND SENT TO THE MAYOR , SUBSTANTIATING THE ALLEGATION THAT HOLMAN ALLOWED PAYMENT WITHOUT BENEFIT OF A CONTRACT. THE ALLEGATION REGARDING PAYMENT WHEN SERVICES WERE NOT RENDERED WAS UNSUBSTANTIATED. AN EXECUTIVE SUMMARY OF THAT REPORT WAS SENT TO EACH MEMBER OF THE DC COUNCIL ON SEPTEMBER 19, 2002. **EXHIBIT D**.

MY OFFICE HAS ALSO RECEIVED AND FULLY INVESTIGATED OTHER ALLEGATIONS AGAINST MR. HOLMAN BY HIS EMPLOYEES. THESE ALLEGATIONS INVOLVED THE MISUSE OF A GOVERNMENT TRAVEL CARD AND THE ACCEPTANCE OF GIFTS, BOTH OF WHICH WERE INVESTIGATED AND FOUND TO BE UNSUBSTANTIATED.

AT NO TIME DID MR. HOLMAN OR ANY EMPLOYEE OF MR. HOLMAN ADVISE MY OFFICE OF ANY MISCONDUCT OR PRESSURE FROM THE MAYOR'S OFFICE INVOLVING CURTIS LEWIS & ASSOCIATES. IN FACT, IT WAS MR. HOLMAN HIMSELF WHO MADE PUBLIC HIS ALLEGATION THAT THE WASHINGTON TEACHERS UNION PRESIDENT PRESSURED HIM TO AWARD A CONTRACT TO

CURTIS LEWIS & ASSOCIATES TO HANDLE FILINGS FOR THE HUMAN RIGHTS OFFICE. THIS INFORMATION WAS SET FORTH IN THE PLEADINGS OF A LAWSUIT HE FILED AGAINST THE DISTRICT, AND REPORTED IN THE *WASHINGTON POST* ON SEPTEMBER 14, 2002, IN CLOSE PROXIMITY TO THE DISCOVERY DURING AN AUDIT THAT FUNDS WERE MISSING FROM THE TEACHERS UNION. THIS CHRONOLOGY SHOULD MAKE CLEAR THAT THERE WAS NO ADVANCE WARNING TO US IN JULY 2001 OF ANY MISCONDUCT INVOLVING MR. HOLMAN AND CURTIS LEWIS.

I WOULD LIKE TO STATE FOR THE RECORD THAT THERE ARE OTHER FACTUAL ERRORS CONTAINED IN THE ABOVE LETTERS AND NEWS ACCOUNTS CONCERNING THE COUNCIL'S BILL – FOR EXAMPLE, THOSE CONCERNING OUR EXECUTION OF A SEARCH WARRANT FOR CAMPAIGN RELATED MATERIAL IN A CASE THAT IS STILL PENDING.

AT THE OUTSET, LET ME EMPHASIZE THAT STATEMENTS ATTRIBUTED TO YOU BY THE *WASHINGTON POST* IN TODAY'S ARTICLE ARE FACTUALLY INACCURATE. UNDER NORMAL CIRCUMSTANCES, I WOULD NOT BE AT LIBERTY TO DISCUSS ONGOING INVESTIGATIONS. HOWEVER, FOR THE PURPOSES OF THIS DISCUSSION, I WILL PROVIDE FACTS ABOUT A SEARCH WARRANT, WHICH IS A PUBLIC DOCUMENT.

FIRST, WE NEVER ISSUED A SUBPOENA FOR THE DISTRICT OF COLUMBIA VOTER ROLLS. RATHER, WE OBTAINED A SEARCH WARRANT FROM THE D.C. SUPERIOR COURT BASED ON PROBABLE CAUSE THAT A CRIME WAS COMMITTED. WE THEN EXECUTED A SEARCH WARRANT AT THE BOARD OF ELECTIONS AND ETHICS (BOEE) ON AUGUST 2, 2002, FOR MATERIAL UNRELATED TO VOTER ROLLS. SECOND, BECAUSE MY OFFICE DID NOT POSSESS THE EXPERTISE OR EQUIPMENT TO CONDUCT THE NECESSARY FORENSIC REVIEW, WE DID NOT TAKE CUSTODY AND EXAMINE THE SEIZED ITEMS. INSTEAD, WE SOLICITED THE ASSISTANCE OF FORENSIC EXPERT SPECIAL AGENTS FROM THE FEDERAL BUREAU OF INVESTIGATIONS, WHO ASSUMED CUSTODY OF THE SEIZED ITEMS FOR EXAMINATION AND DUPLICATION AT THE FBI'S FORENSIC LABORATORY IN VIRGINIA. THE SEARCH WARRANT DIRECTED THE SEIZURE OF ALL DOCUMENTS STORED ELECTRONICALLY ON THE BOARD'S NETWORK SERVER AND BACK-UP TAPES THAT RELATED TO OUR INVESTIGATION.

TO AVOID ANY DISRUPTION OF BOEE'S ACTIVITIES, I DIRECTED MY AGENTS TO EXECUTE THE SEARCH WARRANT AFTER WORKING HOURS AND THAT THEY MUST ENSURE THAT ALL ITEMS SEIZED WERE RETURNED TO BOEE EXPEDITIOUSLY. THEREFORE, WE EXECUTED THE WARRANT ON A FRIDAY EVENING, AT 5:59 P.M. BOEE OFFICIALS REQUESTED THAT WE RETURN THE SEIZED ITEMS BY 7:00 A.M. THE NEXT MORNING. HOWEVER, WE WERE ABLE TO RETURN THE NETWORK SERVERS BY 11:21 P.M., THAT SAME EVENING. ALL OF

OUR ACTIVITIES IN EXECUTING THE WARRANT WERE WITNESSED BY BOEE OFFICIALS.

TO FURTHER ALLEVIATE ANY DISRUPTION TO THE AGENCY'S OPERATIONS, UPON ARRIVAL, THE AGENTS DESCRIBED EXACTLY WHAT INFORMATION WAS TO BE SEIZED AS OUTLINED IN THE SEARCH WARRANT. THE AGENCY'S CHIEF TECHNOLOGY OFFICER COULD NOT IDENTIFY IN WHICH SERVER THE DOCUMENTS WERE STORED. THEREFORE, THE FBI FORENSIC EXPERT DETERMINED WHICH SERVERS MET THE SEARCH WARRANT REQUIREMENTS.

AT NO TIME DID OIG PERSONNEL MANIPULATE OR ALTER THE INFORMATION STORED ON THE SERVERS OR BACK-UP TAPES. RATHER, THESE ITEMS WERE IMMEDIATELY TRANSPORTED TO THE FBI'S FORENSIC LABORATORY IN ACCORDANCE WITH THE SEARCH WARRANT. FBI FORENSIC EXPERTS MERELY COPIED THE INFORMATION FROM THE SERVERS AT THE LABORATORY, AND THE AGENTS IMMEDIATELY TRANSPORTED THE SERVERS DIRECTLY BACK TO BOEE AFTER THIS PROCESS WAS COMPLETED. WHEN WE RETURNED THAT EVENING, THE FBI FORENSIC EXPERT ENSURED THAT THE SERVERS WERE INSTALLED AND PROPERLY FUNCTIONING. THE INSTALLATION OF THE SERVERS WAS WITNESSED BY A BOEE OFFICIAL.

THE BACK-UP TAPES REMAINED AT THE FBI LABORATORY FOR REVIEW AND THEN WERE RETURNED, UNALTERED, TO BOEE AT A LATER DATE. WE RECEIVED

ASSURANCE FROM THE FBI THAT NO MANIPULATION OF THE BACK-UP TAPES OCCURRED WHILE IN THEIR CUSTODY.

UNFORTUNATELY, I AM NOW UNABLE TO COMMENT ON ANY INVESTIGATION THAT IS PENDING. THERE ARE SEVERAL REASONS FOR THIS: FIRST, ALL OF OUR CRIMINAL CASES ARE SUPERVISED BY THE UNITED STATES ATTORNEYS OFFICE AND MUST BE KEPT CONFIDENTIAL UNTIL A PERSON IS CHARGED OR PROSECUTION IS DECLINED; SECOND, MANY OF OUR CASES ARE INVESTIGATED JOINTLY WITH OTHER LAW ENFORCEMENT AGENCIES, SUCH AS THE FBI OR THE MPD, WHO RELY ON US NOT TO REVEAL INFORMATION THAT COULD COMPROMISE AN ONGOING INVESTIGATION; AND THIRD, MANY OF OUR INVESTIGATIONS ARE MATTERS BEFORE THE SECRET PROCEEDINGS OF A GRAND JURY.

IT IS A FACT THAT MY OFFICE – LIKE MOST LAW ENFORCEMENT AGENCIES – MUST OFTEN CONDUCT INVESTIGATIONS THAT ARE UNPOPULAR. WE MUST FOLLOW ALLEGATIONS OF MISCONDUCT EVEN IF THEY INVOLVE THE AVERAGE GOVERNMENT EMPLOYEE, AGENCY DIRECTORS OR EVEN ELECTED OFFICIALS SUCH AS THE MAYOR OR MEMBERS OF THE COUNCIL. THAT IS THE RESPONSIBILITY OF EVERY INDEPENDENT INSPECTOR GENERAL. MY INVESTIGATIONS MAY EXONERATE PEOPLE, OR THEY MAY NOT. EITHER WAY, IT IS NOT APPROPRIATE FOR ANYONE TO DISCOURAGE ME FROM ASKING THE RIGHT QUESTIONS WHEN I AM MADE AWARE OF SERIOUS ALLEGATIONS. I HAVE

A MANDATE IN LAW TO SEEK JUSTICE , WITHOUT POLITICAL INTERFERENCE, NO MATTER WHERE THE TRAIL LEADS. THE CITIZENS OF THE DISTRICT OF COLUMBIA DESERVE NO LESS.